

## **CHAPTER 101-03.1-02 DISCIPLINARY ACTION**

### **Section**

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**101-03.1-02-01. Types of disciplinary action.** Disciplinary action by the board may consist of the following:

1. **Revocation.** Revocation terminates an individual's status as a licensed or certified appraiser. When a license or certificate has been revoked the permittee shall surrender the license or certificate immediately to the board. When a license or certificate has been revoked the licensee may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as a licensed or certified appraiser. Any reapplication for licensure shall be treated as a new application.
2. **Suspension.** Suspension is the removal of a licensee's privilege to act as a licensed or certified appraiser for a specified minimum period of time. When a license or certificate has been suspended the licensee shall surrender the license or certificate to the board for the period of suspension. When a license or certificate has been suspended the licensee may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as a licensed or certified appraiser, but must maintain the license by properly renewing it and complying with continuing education requirements.
3. **Monetary fine.** A monetary fine must be reasonable in light of the conduct of the licensee. A monetary fine may include an amount sufficient to reimburse the board for the cost of a disciplinary action, or to prevent the licensee from obtaining a financial benefit as a result of the licensee's unprofessional or improper conduct.
4. **Issuance of letter of reprimand.** Reprimand is a form of discipline which declares the conduct of the licensee improper, but does not limit the licensee's right to act as a licensed or certified appraiser. Letters of reprimand may be public or private. Letters of reprimand shall be sent by certified mail to the licensee. The letter of reprimand shall be placed in the licensee's licensure file.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 43-23.3-03, 43-23.3-22

**Law Implemented:** NDCC 43-23.3-18, 43-23.3-22

**101-03.1-02-02. Consideration.** In determining whether a license or certificate should be revoked or suspended, whether a monetary fine should be imposed, or whether a public or private letter of reprimand should be issued, the board shall consider all relevant factors, including the following:

1. The severity of the offense;
2. The licensee's mental state;
3. Any physical or mental disability or impairment of licensee;
4. The potential or actual injury caused by the licensee's conduct;
5. The number of repetitions of the offense;
6. A pattern of misconduct;
7. The length of time since the date of violation;
8. The length of time the respondent has practiced;
9. Prior disciplinary offenses or the absence thereof;
10. Remoteness of prior offenses;
11. The deterrent effect of the penalty imposed;
12. Dishonesty or selfish motive, or the absence thereof;
13. The effect of the penalty upon the respondent's livelihood;
14. Any efforts by the licensee to make restitution or to rectify consequences of misconduct;
15. Evidence of rehabilitation;
16. Refusal to acknowledge wrongful nature of conduct;
17. Imposition of other penalties or sanctions; and
18. Any other aggravating or mitigating circumstances.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-18, 43-23.3-22

**101-03.1-02-03. Modification of disciplinary action.** The board, on its own motion or upon application, at any time after the imposition of any discipline may reconsider its prior action and reinstate or restore such license or certificate

or reduce the severity of its prior disciplinary action. The taking of any such further action or the holding of a hearing with respect thereto shall rest in the sole discretion of the board.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-22

**101-03.1-02-04. Notice of disciplinary action.** The board shall notify the disciplinary enforcement agency of other jurisdictions in which the licensee is admitted about any disciplinary action except a private letter of reprimand. Except for a private letter of reprimand, the board shall cause a notice of disciplinary action to be published in the board's newsletter and in the official newspaper of the county in which the licensee maintains an office. The notice shall clearly identify the licensee affected by the disciplinary action and contain a summary of the circumstances which resulted in the action taken, including a reference to the appropriate rule or statute.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-22

**101-03.1-02-05. Notice of status.** Within ten days after the date of the order by which a licensee's license is revoked or suspended, the licensee shall cause notice to be given by registered or certified mail, return receipt requested, to all current clients. The notice shall include the order of the board and state that the licensee cannot act as a certified or licensed real estate appraiser after the effective date of the order.

The board may direct the issuance of notice to such financial institutions or others as may be necessary to protect the interest of clients and other members of the public.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 43-23.3-03

**Law Implemented:** NDCC 43-23.3-22